

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY PANAMA IMMEDIATE

C O N F I D E N T I A L STATE 072065

E.O. 11652: GDS

TAGS: PBOR, PN

SUBJECT: PROPOSED UNDERSTANDING

FOR AMB. JORDEN FROM HANSELL

1. SEN. BROOKE HAS INTRODUCED THE FOLLOWING UNDERSTANDING:

"SUBJECT TO THE UNDERSTANDING, WHICH IS TO BE MADE A PART OF THE INSTRUMENT OF RATIFICATION, THAT THE PAYMENT TO THE REPUBLIC OF PANAMA FOR PUBLIC SERVICES PROVIDED FOR IN PARAGRAPH 5 OF ARTICLE III SHALL BE FIXED TO REFLECT ACTUAL COSTS AND ANY AMOUNTS PAID TO THE REPUBLIC OF PANAMA DURING THE INITIAL THREE YEARS OF THE TREATY WHICH EXCEED ACTUAL COSTS, AS DETERMINED BY THE PANAMA CANAL COMMISSION, SHALL BE DEDUCTED FROM THE ANNUAL PAYMENTS OTHERWISE PAYABLE TO THE REPUBLIC OF PANAMA FOR THE FOLLOWING THREE YEARS ON A PRO RATA BASIS."

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2. BROOKE UNDERSTANDING, AS INTRODUCED, IS CLEARLY UNACCEPTABLE. BROOKE ATTACHES MORE IMPORTANCE TO THIS POINT THAN TO ANY OTHER AFFECTING BILATERAL ASPECTS OF TREATY. BROOKE'S VOTE IS CRUCIAL AND MAY INFLUENCE THAT OF OTHER SENATORS. DEPARTMENT IS ATTEMPTING TO DEVELOP A LESS OBJECTIONABLE VERSION WHICH COULD BE OFFERED TO

TO BROOKE AS A COMPROMISE. UNLESS OBJECTIONS ARE PERCEIVED, AMBASSADOR IS REQUESTED TO CONSULT PROMPTLY WITH PANAMANIAN REPRESENTATIVES TO DETERMINE WHETHER THE FOLLOWING FORMULATION WOULD BE ACCEPTABLE:

"SUBJECT TO THE UNDERSTANDING, WHICH IS TO BE MADE A PART OF THE INSTRUMENT OF RATIFICATION, THAT THE PAYMENT TO THE REPUBLIC OF PANAMA FOR PUBLIC SERVICES PROVIDED FOR IN PARAGRAPH 5 OF ARTICLE III SHALL BE FIXED TO REFLECT ACTUAL COSTS AND ANY AMOUNTS PAID TO THE REPUBLIC OF PANAMA DURING THE INITIAL THREE YEARS OF THE TREATY WHICH EXCEED ACTUAL COSTS SHALL BE REDUCED FROM THE ANNUAL PAYMENTS OTHERWISE PAYABLE TO THE REPUBLIC OF PANAMA FOR THE FOLLOWING THREE YEARS ON A PRO RATA BASIS. THE REPUBLIC OF PANAMA SHALL PROVIDE A DETAILED STATEMENT OF COSTS INCURRED FOR SERVICES RENDERED TO THE UNITED STATES THROUGH THE COORDINATING COMMITTEE ESTABLISHED UNDER ARTICLE III OF THE AGREEMENT IN IMPLEMENTATION OF ARTICLE III OF THE TREATY. IN THE EVENT ANY QUESTION SHOULD ARISE CONCERNING THE ACTUAL COST WHICH CANNOT BE RESOLVED THROUGH DISCUSSIONS IN THE COMMITTEE, THE PARTIES SHALL OBTAIN A REVIEW OF SUCH COSTS BY AN INDEPENDENT AUDITOR AND SHALL BE BOUND BY SUCH AUDIT."

3. THE FOLLOWING IS THE FINAL VERSION OF THE DANFORTH UNDERSTANDING WHICH AMBASSADOR REVIEWED IN WASHINGTON:
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"SUBJECT TO THE UNDERSTANDING, WHICH IS TO BE MADE A PART OF THE INSTRUMENT OF RATIFICATION, THAT NOTHING IN SUBPARAGRAPH 4(C) OF ARTICLE XIII SHALL BE CONSTRUED TO LIMIT THE AUTHORITY OF THE UNITED STATES OF AMERICA THROUGH THE UNITED STATES GOVERNMENT AGENCY CALLED THE PANAMA CANAL COMMISSION TO MAKE SUCH FINANCIAL DECISIONS AND INCUR SUCH EXPENSES AS ARE REASONABLE AND NECESSARY FOR THE MANAGEMENT, OPERATION, AND MAINTENANCE OF THE PANAMA CANAL. IN ADDITION, TOLL RATES ESTABLISHED PURSUANT TO PARAGRAPH 2(D) OF ARTICLE III NEED NOT BE SET AT LEVELS DESIGNED TO PRODUCE REVENUES TO COVER THE PAYMENT TO PANAMA DESCRIBED IN SUBPARAGRAPH 4(C) OF ARTICLE XIII".

AMBASSADOR'S COMMENTS, IF ANY, ARE REQUESTED. VANCE

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